

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA
3

4 Larry James Washington,
5 Petitioner
6 v.
7 Jo Gentry, et al.,
8 Respondents
9

2:17-cv-01589-JAD-NJK

Order

[ECF Nos. 1, 2]

10 Pro se Nevada state prisoner Larry James Washington brings this petition for a writ of
11 habeas corpus under 28 U.S.C. § 2254 to challenge his 2013 kidnapping and battery convictions
12 pursuant to a guilty plea. Washington filed an application to proceed *in forma pauperis* (ECF
13 No. 1) with his habeas corpus petition (ECF No. 1-1) and moves for court-appointed counsel
14 (ECF No. 2).

15 **I. Application to proceed *in forma pauperis***

16 Washington's application to proceed *in forma pauperis* shows that he is able to pay the
17 \$5 filing fee for this action. Therefore, the *in forma pauperis* application will be denied, and
18 Washington will be granted time to pay the \$5 filing fee. To pay the filing fee, Washington must
19 have \$5 sent to the Clerk of the Court, with a cover letter setting forth the case number of this
20 action. If Washington believes that, since he filed his *in forma pauperis* application, he has
21 become unable to pay the \$5 filing fee, he may, alternatively, file a new application to proceed *in*
22 *forma pauperis*. If Washington fails to pay the filing fee or file a new *in forma pauperis*
23 application within the time allowed, this action will be dismissed.

24 **II. Request for counsel**

25 Washington also asks for court-appointed counsel to represent him in this action. There
26 is no constitutional right to counsel for a federal habeas corpus proceeding.¹ The district court
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28 ¹ *Penn. v. Finley*, 481 U.S. 551, 555 (1987).

1 has discretion to appoint counsel if the “interests of justice require representation,” and the court
2 must appoint counsel if the case is so complex that denial of counsel would amount to a denial of
3 due process.² The court has reviewed the petition prepared by Washington. It appears that he
4 has the ability to communicate his issues, which are not so complex that denial of counsel would
5 amount to a denial of due process. Accordingly, I do not find that the interests of justice require
6 representation in this case, and I deny the motion to appoint counsel.

7 **IT IS THEREFORE ORDERED** that petitioner’s Application to Proceed *In Forma*
8 *Pauperis* [ECF No. 1] **is DENIED**. Petitioner has until August 14, 2017, to either pay the \$5
9 filing fee for this action or file a new application to proceed *in forma pauperis*, or this case will
10 be dismissed. The Clerk of the Court is directed to **SEND** to petitioner, along with a copy of this
11 order, two form *in forma pauperis* applications.

12 **IT IS FURTHER ORDERED** petitioner’s motion to appoint counsel [ECF No. 2] **is**
13 **DENIED**.

14 DATED: July 13, 2017

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16 Jennifer A. Dorsey
17 United States District Judge
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28 ² See *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986), *cert. denied*, 481 U.S. 1023 (1987).